THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 25621 of 2003

O r d e r:

Assailing the award dated 01.07.2003, passed by the Labour Court, Warangal, in I.D. No. 112 of 2001, published in G.O. Rt. No. 1689, dated 03.09.2003, the petitioner filed the present writ petition.

The petitioner was originally appointed as Badili Conductor on daily wage basis in the 1st respondent-APSRTC on 09.11.1987, and his services were regularized with effect from 01.01.1989. On 21.01.2001, while the petitioner was conducting the bus on the route Solipuram – Khammam, a check was exercised, and the checking officials having found certain cash and ticket irregularities, issued charge memo to the petitioner. The petitioner submitted his explanation to the charge memo. Dissatisfied with the explanation, the respondents placed the petitioner under suspension, and a charge sheet was issued. The Enquiry Officer, who conducted enquiry into the charges leveled against the petitioner, submitted report holding that the charges are proved. Based on the enquiry report, the 1st respondent, namely the Depot Manager, vide proceedings dated 12.04.2001, removed the petitioner from service. Assailing the order of removal, the petitioner raised an industrial dispute in I.D. No. 112 of 2001 before the Labour Court, which by award dated 01.07.2003, published in G.O. Rt. No. 1689, dated 03.09.2003, dismissed the same, upholding the orders of the disciplinary authority. Assailing the said award and notification, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the

petitioner did not commit any cash and ticket irregularities. He submits that on the date of check as the petitioner was not feeling well he closed the SR by issuing tickets to the other two passengers and slept by taking tablets, and he did not notice the two passengers who boarded the bus at Solipuram stage. He submits that the said two passengers had deliberately and intentionally did not take tickets till the point of check, and when the TTI came for checking they pleaded guilty and paid fine of Rs.50/- besides paying the requisite fare. He submits that the Labour Court, without properly appreciating the said factual aspects and the statements of the passengers, who categorically stated that they slept immediately after boarding the bus, erred in confirming the order passed by the disciplinary authority, and at any rate, he contended that the punishment of removal from service imposed on the petitioner is disproportionate to the proved charges. He thus prayed that the impugned order be set aside and the petitioner be reinstated into service.

The learned Standing Counsel for respondent No.1-APSRTC reiterating the stand taken in the counter-affidavit submitted that at the time of check only four passengers were present in the bus, and the petitioner failed to issue tickets to two passengers out of four passengers, and caused loss to the legitimate revenue of the Corporation. He further submits that the petitioner committed serious cash and ticket irregularities, and the charges leveled against the petitioner were held proved by the Enquiry Officer in the departmental enquiry, and based on the enquiry report, the disciplinary authority imposed punishment of removal from service on the petitioner, which was confirmed by the Labour Court. Having regard to the nature of the proved charges, the punishment of removal from service, cannot be said to be disproportionate, warranting interference therewith by this

Court in exercise of its jurisdiction under Article 226 of the Constitution of India. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner, the learned Standing Counsel for the respondent No.1-APSRTC, and the learned Government Pleader for Labour.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

The petitioner, as can be seen from the award of the Labour Court, does not dispute the validity of the domestic enquiry proceedings. The petitioner was charge sheeted on three counts, namely, (1) for having violated the rule “Issue and Start”, (2) for having failed to collect the fare and issue tickets to two passengers, who boarded the Bus at Solipuram and found alighting at Kakaravai without ticket, and (3) for having closed the tray numbers of all denominations up to stage No.10 without completing the issue of tickets. These charges leveled against the petitioner, stood proved in the departmental enquiry. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court, upon analyzing the evidence before it, and the spot explanation given by the petitioner, wherein he has not pleaded any ill-health or some other reason for his failure to collect fare and issue tickets to two passengers, and the theory of ill-health not having been explained to TTI during cross-examination, disbelieved

the version of the petitioner that on the date of check as he was not feeling well he closed the SR by issuing tickets to the other two passengers and slept by taking tablets, and that he did not notice the two passengers who boarded the bus at Solipuram stage, and having found that he failed to collect fare and issue tickets to two passengers out of four passengers and committed cash and ticket irregularities intentionally, held that the punishment of removal from service imposed by the disciplinary authority is proportionate to the charges proved, and I see no reason whatsoever to interfere therewith, more so when the charges leveled against the petitioner stood proved in the departmental enquiry and when the petitioner failed to point out any infirmities in the departmental enquiry.

It may be noticed whether the punishment imposed by the disciplinary authority, as confirmed in appeal and in I.D. by the Labour Court, is disproportionate to the gravity of the proved misconduct. In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane**[1], the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the apex Court held as follows:

> Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration.

In the instant case, the charges leveled against the petitioner stood proved, and having regard to the gravity and seriousness of the proved charges, the 1st respondent-Depot Manager having lost confidence in the petitioner, removed him from service. When the 1st respondent-Depot Manager has lost confidence in the petitioner, it is

not proper for this Court to interfere with the punishment imposed by the disciplinary authority, as confirmed in appeal as well as by the Labour Court in the impugned award.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 14th September, 2006.
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[1] (2005) 3 SCC 254